



February 15, 2005

HOUSE BILL No. 1063

DIGEST OF HB 1063 (Updated February 9, 2005 9:01 am - DI 107)

Citations Affected: IC 32-24.

Synopsis: Eminent domain for commercial uses. Provides that the state or a political subdivision may use eminent domain to acquire property for commercial use only if the property owner has rejected an offer from the state or a political subdivision that is equal to at least the higher of 150% of the property's assessed value or the average of 3 appraisals of the property.

Effective: July 1, 2005.

Wolkins, Heim, Bottorff

January 6, 2005, read first time and referred to Committee on Judiciary.
February 14, 2005, amended, reported — Do Pass.

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HB 1063—LS 6323/DI 69+



February 15, 2005

First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

HOUSE BILL No. 1063

A BILL FOR AN ACT to amend the Indiana Code concerning property.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 32-24-1-3.5 IS ADDED TO THE INDIANA CODE
2 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2005]: **Sec. 3.5. (a) This section does not apply to:**

- 4 (1) a public utility (as defined in IC 8-1-2-1);
5 (2) a municipally owned utility (as defined in IC 8-1-2-1);
6 (3) a joint agency (as defined in IC 8-1-2.2-2);
7 (4) a rural electric membership corporation formed under
8 IC 8-1-13-4;
9 (5) a rural telephone cooperative corporation formed under
10 IC 8-1-17;
11 (6) a not-for-profit utility (as defined in IC 8-1-2-125);
12 (7) a board of aviation commissioners established under
13 IC 8-22-2;
14 (8) an airport authority established under IC 8-22-3; or
15 (9) a railroad.

16 (b) As used in this section, "any interest" includes the right to
17 own, lease, sublease, transfer, or exchange a part of a property to

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1 be condemned.

2 (c) As used in this section, "commercial use" means a use that
3 does not relate directly to providing a governmental service or
4 fulfilling a governmental responsibility. The term includes the
5 following:

6 (1) Private residential development or use of the property.

7 (2) Private development of the property under a lease.

8 (3) Use of the property for retail or industrial purposes.

9 (d) The state or a political subdivision may use eminent domain
10 to acquire property for commercial use or to transfer any interest
11 in property to another person for commercial use only if the owner
12 of the property has rejected an offer from the state or a political
13 subdivision that is equal to at least the higher of the following
14 amounts:

15 (1) One hundred fifty percent (150%) of the property's
16 assessed value.

17 (2) The average of three (3) appraisals of the property. One

18 (1) of the appraisers shall be appointed by the state or
19 political subdivision and one (1) by the property owner. These
20 two (2) appraisers shall appoint a third appraiser. However,
21 if they are unable to do so, each appraiser shall submit the
22 names of three (3) appraisers to the circuit court for the
23 county in which the property is located and the court shall
24 appoint the third appraiser from the names submitted.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Judiciary, to which was referred House Bill 1063, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, line 3, delete "This section applies to all property that is" and insert "**This section does not apply to:**

- (1) a public utility (as defined in IC 8-1-2-1);
- (2) a municipally owned utility (as defined in IC 8-1-2-1);
- (3) a joint agency (as defined in IC 8-1-2.2-2);
- (4) a rural electric membership corporation formed under IC 8-1-13-4;
- (5) a rural telephone cooperative corporation formed under IC 8-1-17;
- (6) a not-for-profit utility (as defined in IC 8-1-2-125);
- (7) a board of aviation commissioners established under IC 8-22-2;
- (8) an airport authority established under IC 8-22-3; or
- (9) a railroad."

Page 1, delete line 4.

Page 1, line 15, delete "Except as provided in subsection (e), eminent domain may" and insert "**The state or a political subdivision may use eminent domain to acquire property for commercial use or to transfer any interest in property to another person for commercial use only if the owner of the property has rejected an offer from the state or a political subdivision that is equal to at least the higher of the following amounts:**

- (1) One hundred fifty percent (150%) of the property's assessed value.
- (2) The average of three (3) appraisals of the property. One (1) of the appraisers shall be appointed by the state or political subdivision and one (1) by the property owner. These two (2) appraisers shall appoint a third appraiser. However, if they are unable to do so, each appraiser shall submit the names of three (3) appraisers to the circuit court for the county in which the property is located and the court shall appoint the third appraiser from the names submitted."

Page 1, delete lines 16 through 17.

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Delete page 2.

and when so amended that said bill do pass.

(Reference is to HB 1063 as introduced.)

FOLEY, Chair

Committee Vote: yeas 7, nays 5.

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